

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Orders: (1) Approving Proposed Settlement Agreement Between Southern California Edison Company and Del Ranch, L.P. and Elmore, L.P., and (2) Authorizing Edison's Recovery in Rates of Payments Pursuant to Proposed Settlement.

Application 99-11-036
(Filed November 29, 1999)

**ADMINISTRATIVE LAW JUDGE'S RULING
RENEWING PROTECTIVE ORDER**

Summary

I grant the motion of Southern California Edison (Edison) to extend a protective order entered in this case two years ago in Decision (D.) 00-05-046. When the Commission entered the order, it provided that it would expire two years thereafter, on May 18, 2002. Edison has shown the material still deserves to be shielded from public view, and I therefore extend the protective order for another two years. Edison shall seek further extension of the protective order in two years if it claims further protection is warranted.

Background

In D.00-05-046, the Commission approved a settlement agreement resolving litigation between Edison and two qualifying facilities, Del Ranch, L.P.

and Elmore, L.P. (the QFs).¹ The litigation concerned the price Edison was required to pay the QFs for electrical energy in 1998, and resulted from an ambiguity in the contract price.

Because Edison claimed it had several similar but unresolved cases with other QFs, it contended that releasing the price reflected in the settlement would allow other QFs to claim they were entitled to the same price. This might ultimately hurt ratepayers by requiring Edison to pay out monies – recoverable from ratepayers – that it might otherwise not have had to pay. Edison claims now that it is still a party to approximately 104 active QF contracts. Because it may be forced to buy out those contracts in the future, it claims continued protection of the settlement figure is warranted.

Discussion

I grant Edison's motion. Edison justified its original claim on the grounds that (1) the settlement agreement itself contains a confidentiality clause that prohibits Edison from revealing the settlement's terms; (2) the settlement terms are confidential and proprietary to Edison because disclosure could cause Edison competitive harm in negotiating settlements of future disputes involving similar issues.² As to this latter argument, Edison pointed out that disclosure of the settlement terms would impair Edison's ability in the future to obtain the best possible settlements

¹ A QF is a small power producer or cogenerator that meets federal guidelines and thereby qualifies to supply generating capacity and electric energy to electric utilities. Utilities were required to purchase this power at prices approved by state regulatory agencies.

² Motion for Protective Order, filed November 3, 1999, at 3.

on behalf of its ratepayers.

The Commission has approved similar protective orders in other QF-utility cases.³ Moreover, no party has opposed the motion for protective order. I find that disclosure of the settlement terms would put Edison in breach of the settlement agreement's requirement of confidentiality, and might jeopardize ratepayers by revealing the settlement terms to other potential QF litigants.

Edison had demonstrated good cause to maintain the terms of the settlement agreement in confidence. Therefore, I grant Edison's motion for protective order.

IT IS RULED that Edison's motion for a protective order is granted to the extent set forth below:

A. Designated portions of Edison's application and Exhibit Nos. SCE-1 and SCE-2, and Exhibit No. SCE-3 in its entirety, which have been filed under seal as an attachment to the motion for protective order, shall remain under seal for a period of two years from the date of this ruling. During that period, the foregoing documents or portions of documents shall not be made accessible or be disclosed to anyone other than Commission staff except on the further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge.

B. If Edison believes that further protection of this information is needed after two years, it may file a motion stating the justification for further

³ D.99-08-008, Cal. PUC Lexis 499, at *4; D.98-06-021, 1998 Cal. PUC Lexis 474, at *20; D.98-02-112, 1998 Cal PUC Lexis 235, at *3.

withholding the material from public inspection, or for such other relief as the Commission rules may then provide. This motion shall be filed no later than 30 days before the expiration of this protective order.

Dated July 10, 2002, at San Francisco, California.

/s/ SARAH R. THOMAS

Sarah R. Thomas
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Renewing Protective Order on all parties of record in this proceeding or their attorneys of record.

Dated July 10, 2002, at San Francisco, California.

/s/ JEANNIE CHANG

Jeannie Chang

N O T I C E

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